

§ 154.1010 Purpose.

This subpart establishes oil spill response plan requirements for all marine transportation-related (MTR) facilities (hereafter also referred to as facilities) that could reasonably be expected to cause substantial harm or significant and substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone. The development of a response plan prepares the facility owner or operator to respond to an oil spill. These requirements specify criteria to be used during the planning process to determine the appropriate response resources. The specific criteria for response resources and their arrival times are not performance standards. The criteria are based on a set of assumptions that may not exist during an actual oil spill incident.

§ 154.1015 Applicability.

(a) This subpart applies to all MTR facilities that because of their location could reasonably be expected to cause at least substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone.

(b) The following MTR facilities that handle, store, or transport oil, in bulk, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters or adjoining shorelines and are classified as substantial harm MTR facilities:

(1) Fixed MTR onshore facilities capable of transferring oil to or from a vessel with a capacity of 250 barrels or more and deepwater ports;

(2) Mobile MTR facilities used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more; and

(3) Those MTR facilities specifically designated as substantial harm facilities by the COTP under § 154.1016.

(c) The following MTR facilities that handle, store, or transport oil in bulk could not only reasonably be expected to cause substantial harm, but also significant and substantial harm, to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or exclusive economic zone

and are classified as significant and substantial harm MTR facilities:

(1) Deepwater ports, and fixed MTR onshore facilities capable of transferring oil to or from a vessel with a capacity of 250 barrels or more except for facilities that are part of a non-transportation-related fixed onshore facility with a storage capacity of less than 42,000 gallons; and

(2) Those MTR facilities specifically designated as significant and substantial harm facilities by the COTP under § 154.1016.

(d) An MTR facility owner or operator who believes the facility is improperly classified may request review and reclassification in accordance with § 154.1075.

§ 154.1016 Facility classification by COTP.

(a) The COTP may upgrade the classification of:

(1) An MTR facility not specified in § 154.1015 (b) or (c) to a facility that could reasonably be expected to cause substantial harm to the environment; or

(2) An MTR facility specified in § 154.1015(b) to a facility that could reasonably be expected to cause significant and substantial harm to the environment.

(b) The COTP may downgrade, the classification of:

(1) An MTR facility specified in § 154.1015(c) to a facility that could reasonably be expected to cause substantial harm to the environment; or

(2) An MTR facility specified in § 154.1015(b) to a facility that could not reasonably be expected to cause substantial, or significant and substantial harm to the environment.

(3) The COTP will consider downgrading an MTR facility's classification only upon receiving a written request for a downgrade of classification from the facility's owner or operator.

(c) When changing a facility classification the COTP may, as appropriate, consider all relevant factors including, but not limited to: Type and quantity of oils handled in bulk; facility spill history; age of facility; proximity to public and commercial water supply intakes; proximity to navigable waters based on the definition of navigable

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waters in 33 CFR 2.36; and proximity to fish and wildlife and sensitive environments.

[CGD 91-036, 61 FR 7917, Feb. 29, 1996, as amended by USCG-2008-0179, 73 FR 35014, June 19, 2008]

§ 154.1017 Response plan submission requirements.

(a) The owner or operator of an MTR facility identified only in § 154.1015(b), or designated by the COTP as a substantial harm facility, shall prepare and submit to the cognizant COTP a response plan that meets the requirements of §§ 154.1030, 154.1040, 154.1045, or § 154.1047, as appropriate. This applies to:

(1) A mobile MTR facility used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more; and

(2) A fixed MTR facility specifically designated as a substantial harm facility by the COTP under § 154.1016.

(b) The owner or operator of an MTR facility identified in § 154.1015(c) or designated by the COTP as a significant and substantial harm facility shall prepare and submit for review and approval of the cognizant COTP a response plan that meets the requirements of §§ 154.1030, 154.1035, 154.1045, or § 154.1047, as appropriate. This applies to:

(1) A fixed MTR facility capable of transferring oil, in bulk, to or from a vessel with a capacity of 250 barrels or more; and

(2) An MTR facility specifically designated as a significant and substantial harm facility by the COTP under § 154.1016.

(c) In addition to the requirements in paragraphs (a) and (b) of this section, the response plan for a mobile MTR facility must meet the requirements of § 154.1041 subpart F.

§ 154.1020 Definitions.

Except as otherwise defined in this section, the definition in 33 CFR 154.105 apply to this subpart and subparts H and I.

Adverse weather means the weather conditions that will be considered when identifying response systems and equipment in a response plan for the applicable operating environment. Factors to consider include, but are not

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limited to, significant wave height as specified in §§ 154.1045, 154.1047, 154.1225, or 154.1325, as appropriate; ice conditions, temperatures, weather-related visibility, and currents within the COTP zone in which the systems or equipment are intended to function.

Animal fat means a non-petroleum oil, fat, or grease derived from animals, and not specifically identified elsewhere in this part.

Average most probable discharge means a discharge of the lesser of 50 barrels or 1 percent of the volume of the worst case discharge.

Captain of the Port (COTP) Zone means a zone specified in 33 CFR part 3 and, where applicable, the seaward extension of that zone to the outer boundary of the exclusive economic zone (EEZ).

Complex means a facility possessing a combination of marine-transportation related and non-transportation-related components that is subject to the jurisdiction of more than one Federal agency under section 311(j) of the Clean Water Act.

Dispersant-application platform means the vessel or aircraft outfitted with the dispersant-application equipment acting as the delivery system for the dispersant onto the oil spill.

Dispersant Mission Planner 2 or (DMP2) means an Internet-downloadable application that estimates EDAC for different dispersant response systems. The NSFCC will use DPMP2 for evaluating OSRO dispersant classification levels.

Effective Daily Application Capacity or *EDAC* means the estimated amount of dispersant that can be applied to a discharge by an application system given the availability of supporting dispersant stockpiles, when operated in accordance with approved standards and within acceptable environmental conditions.

Exclusive economic zone (EEZ) means the zone contiguous to the territorial sea of the United States extending to a distance up to 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

Facility that could reasonably be expected to cause significant and substantial harm means any MTR facility (including piping and any structures that